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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,612	10/01/2003	James J. Xie	H0421 / AMDP954US	7931
23623	7590	01/13/2005	EXAMINER	
AMIN & TUROCY, LLP 1900 EAST 9TH STREET, NATIONAL CITY CENTER 24TH FLOOR, CLEVELAND, OH 44114			DANG, PHUC T	
			ART UNIT	PAPER NUMBER
			2818	

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/676,612

Applicant(s)

XIE ET AL.

Examiner

PHUC T DANG

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on election filed November 26, 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 7, 8 and 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

1. Examiner made an error on the restriction filed on November 26, 2004. Correction is divided by two Groups:

Group I (claims 1-6 and 9-14) instead of (claims 1-6 and 9-15) and

Group II (claims 7-8 and 15-20) instead of (claims 7-8 and 16-20).

Applicant's election filed on December 9, 2004 has been entered.

In election, Applicants elected Group I (claims 1-6 and 9-14) with traverse and withdrawn Group II (claims 7-8 and 15-20).

Because Applicant did not distinctly and specifically point out the supposed error in the restriction requirement, the election has been treated as an election without traverse (MPEP 818.03(a)). Applicants have the right to file a divisional application covering the subject matter of the non-elected claims.

Claims 1-6 and 9-14 are pending in the application for examination at this time.

Oath/Declaration

2. The oath/declaration filed on October 1, 2003 is acceptable.

Specification

3. The specification has been checked to the extent necessary to determine the presence of all possible minor errors. However, the applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

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On page 14, lines 7-9, a term of “the organic layer 402” should change to -- the organic layer 400 --.

Claim Rejections-35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the application regards as his invention.

4. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

In claim 2, line 4, “a second layer” is insufficient antecedent basis for this limitation in the claim because Applicant did not point out “a first layer” in the independent claim 1. Correction is required.

Allowable Subject Matter

5. Claims 1-6 and 9-14 would be allowed.

The following is a statement of reason for the indication of allowable subject matter:

Claims 16 and 9-14 are considered allowable since the prior art of record and the considered pertinent to the applicant’s disclosure does not teach or suggest the claimed invention having a step of growing a passive layer within the depression and exposing the passive layer to an organic acid to smooth the surface on the substrate.

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Conclusion

6. Applicants are advised to cancel the non-elected claims 7-8 and 15-20 in response to the next Office action if the application is considered to be allowed.

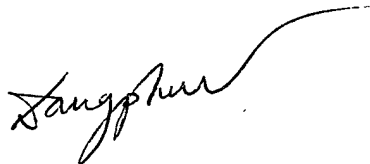
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuc T. Dang whose telephone number is (571) 272-1776. The examiner can normally be reached on 8:00 am-5:00 pm.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David C. Nelms can be reached on (571) 272-1787. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and After Final communications.

9. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Phuc T. Dang

P.D.



Primary Examiner

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